Supreme Court, U S
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No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Marie K. Yanna - Trombley
Plaintiff, pro se,
Petitioner

v.

Saturn Corporation
(Subsidiary of General Motors Corp.)
Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

PETITION FOR WRIT OF CERTIORARI

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Question Presented for Review #1

Whether the United States Court of Appeals for the Sixth Circuit decided an important question of federal law in a way that conflicts with relevant decisions of this Supreme Court of the United States?

Question Presented for Review #2

Whether the United States Court of Appeals for the Sixth Circuit departed from the accepted and usual course of judicial proceedings when the Court denied Petitioner Due Process as provided by the Fifth Admendant of the United States Constitution?

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Petition for a Writ of Certiorari

Marie K. Yanna- Trombley , respectfully petitions for a writ of Certiorari to review the decision of the United States Court of Appeals for the Sixth Circuit in this case.

Opinions and Orders

In the United States Court of Appeals for the Sixth Circuit , unpublished opinion in case 05-6419 the Court concluded they found the Supervisor hung up on Plaintiff's call and hung up on her again as she attempted to call 911. The Court concluded there is an arguable adverse action shown in this case which was the eventual termination of Yanna-Trombley's employment. The Court concluded there is no genuine issue of material fact. The summary judgment for defendant is therefore affirmed. Order entered July 20, 2006 reproduced at 1a.

An order denying Petition for Rehearing with Suggestion for Rehearing En Banc entered on October 27, No Judge in the United States court of Appeals for the Sixth Circuit having requested a vote on the suggestion for rehearing en banc, the petition for rehearing was referred to the original panel reproduced at 8a.

Order granting Stay of Mandate in the United States Court of Appeals for the Sixth Circuit on November 13, 2006 reproduced at 10a.

Jurisdiction

The order sought to be reviewed was entered on July 20, 2006 in the United St.es Court of Appeals for the Sixth Circuit.

Order denying Petition for Rehearing with Suggestion for Rehearing En Banc on October 27, 2006.

This petition is timely under Supreme Court rule 13.3 because it is being filed within 90 days of the entry of the order denying Petition for Rehearing with Suggestion for Rehearing En Banc on October 27, 2006.

The district court had federal question jurisdiction over the plaintiffs' claims under the Title VII of the Civil Rights Act of 1964, employment discrimination. Specifically 42 U.S.C. § 2000e-5 pursuant to 28 U.S.C. § 1331. The Court of Appeals had jurisdiction to review the final judgment of the district court pursuant to 28 U.S.C. § 1291. The jurisdiction of this court is invoked under 28 U.S.C. § 1254.

The order of the United States Court of Appeals for the Sixth Circuit sought to be reviewed was entered on July 20, 2006.

Statutory Provisions

Title VII's 42 USC Sec. 2000e-3 [section 704]

(a) Discrimination for making charges, testifying , assisting, or participating in enforcement proceedings. It shall be an unlawful employment practice for an employer to

discriminate against any of his employees or applicants for employment, ... to discriminate against .... , because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

The Civil Rights Act of 1991 42 U.S.C. 1981a . (a) Right to recovery . (1) Civil Rights.- In an action brought by a complaining party under section 706 or 717 of the Civil Rights Act of 1964(42 U.S.C.2000e-5, 2000e-16) against a respondent who engaged in unlawful intentional discrimination prohibited under section 703 , 704, or 717 of the Act (42 U.S.C.2000e-2, 2000e-3, 2000e-16) .....the complaining party may recover compensatory and punitive damages as allowed in subsection

(b) of this section, in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

42 U.S.C. 1981a .(c) Jury Trial, If a complaining party seeks compensatory or punitive damages under this section -

(1) any party may demand a jury trial.

The Americans with Disabilities Act of 1990, Titles I and V.

42 USC Sec. 12102.[section 3] (2)(c) the term disability means , with respect to an individual being regarded as having such impairment.

Title 1 of the ADA -Employment .

Sec12112 [sec 102] (a)... No covered entity shall

discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Sec12112 [sec 102] (b)..."discriminate"includes - (1) limiting , segregating, or classifying a.... employee that in a way that adversely affects the opportunities or status of such ... employee because of the disability of such ....employee. (3) utilizing standards, criteria, or methods of administration- (A) that have the effect of discrimination on the basis of disability; .(6) using qualification standards , ... or other selection criteria that screen out or tend to screen out an individual with a disability.....

unless selection criteria , as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity....

Title V of the ADA,. includes a provision prohibiting either (a) coercing or threatening or (b) retaliating against the disabled or those attempting to aid people with disabilities in asserting their rights under the ADA.

29 CFR 1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of section 703 of title VII. Unwelcome sexual advances....and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct s made either explicitly or implicitly a term an condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The Age Discrimination in Employment Act of 1967. Prohibition of Age Discrimination,

29 U.S.C Sec 623 [Section 4] (a) It shall be unlawful for an employer - (1) to fail or refuse to hire or discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions , or privileges of employment, because of such individuals age...(2) to limit, segregate or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individuals age...

29 U.S.C. § 201,et seq. Fair Labor Act of 1938, as amended. Sec 6 Minimum wage Every employer shall pay to each of his employees who in any work week is engaged in commerce or in production of goods for commerce, or is employed in an enterprise engaged in commerce or in production of goods for commerce, wages at the following rates ; (1) except as otherwise provided in this section ..... not less than 5.15 an hour beginning September 1, 1997.

Section 16 (b) Any employer who violates this provision of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in addition equal amount as liquidated damages.

Constitutional Provisions

The Fifth Amendment of the United States Constitution states that no person shall be deprived of life, liberty, or property without due process of law.

The Seventh Amendment of the United States Constitution states that in suits at common law, where value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury , shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.

Statement Of The Case

The basis for Federal Jurisdiction in the court of first instance is Title VII of the Civil Rights Act of 1964 42 U.S.C. § 2000e-5 pursuant to 28 U.S.C. § 1331.

This Case presents an important issue (s)with denial of Due Process including improper application of settled Precedent , Standards and Rules .

Summary of Plaintiff's Second Amended Complaint Under Title VII of the Civil Rights Act of 1964

The second amended complaint was received in the District Court on January 14, 2005 and was not granted and filed until August 15, 2005.

Plaintiff sought equitable and other relief under 42U.S.C. section 2000e-5 , section 1981(a) see (Second Amended Complaint ¶ 1 and ¶ 22 to ¶ 30 and prayer).

The Plaintiff, Marie Yanna- Trombley (Yanna-Trombley) at time of filing the complaint is a 48 years old citizen of the United States (Second Amended Complaint ¶ 7) was employed by Defendant General Motors since 1977. In 1991, she transferred to the Saturn, Spring Hill Manufacturing Plant which is a subsidiary of General Motors (Saturn/GM) in which she has over 25 years combined service (Id., ¶ 8).

In October 2002, Marie K. Yanna- Trombley and Saturn Corp. a subsidiary of General Motors settled a previous Title VII case 1-02-0045, reproduced at 22a.

Plaintiff claims retaliation against her started almost immediately after she returned to work (id., ¶ 10). Plaintiff claims she was not reinstated according to settlement agreement (id.,¶ 11). On about August 6, 2003 Saturn /GM disciplined plaintiff and placed in her a disciplinary step called the Red Zone because she made complaints (id.,¶ 13). On August 15, 2003, Ms. Yanna- Trombley filed a complaint with the Tennessee Human Rights Commission ("THRC"), and received a notice of right to sue on January 20, 2004 (id., ¶ 4).

Plaintiff was stopped from working (id.,¶ ¶ 17,18). Plaintiff's supervisor, Dave Salima a large man over 6 feet tall, hung up the phone on Ms. Yanna- Trombley and he also slapped her hands away as she tried to redial for help . Yanna- Trombley went to the Police to make a complaint against her supervision and in retaliation, Saturn/ GM, withdrew plaintiffs earned wages being $14,51.86 from her bank (id., ¶ 17), reproduced at 14a

After going to the police to make a complaint, Plaintiff was restricted from Saturn property and not

allowed to enter unto the property to work (id., ¶ ¶18, 19), reproduced at 19a.

Yanna- Trombley then received letters after being restricted from work that Saturn /GM considered her a voluntary quit (id., ¶ ¶17.18).

Ms. Yanna- Trombley filed a second charge with the THRC on October 29, 2003 and received a second notice of right to sue executed by the EEOC Area Director dated February 27, 2004 (id., ¶ 5).

The Decision below conflicts with resent U.S. Supreme Court Rulings

Plaintiff produced evidence of being placed in the Red Zone a disciplinary action for making complaints, being stopped from calling police, being restricted from work because she went to the police see 21a, and the right to her earned wages being taken away see14a, including the loss of her over 25 year career with Saturn /GM.

> The anti-retaliation provision seeks to prevent employer interference with "unfettered access' to Title VII's remedial mechanisms. *Robinson*, 519 U.S., at 346. It does so by prohibiting employer actions that are likely "to deter victims of discrimination from complaining to the EEOC," the courts, and their employers *Ibid.; Burlington Northern & Santa Fe Railway Co. v. White*, 126 S. Ct. 2405 U.S.,2006.

The Appeals Court found that Yanna- Trombley's supervisor hung up on her call. She returned to

the phone and attempted to call 911; the supervisor hung up on her again. See order from United States Court of Appeals for the Sixth Circuit, reproduced at 1a.

If satisfaction of an essential element of a claim is at issue, however , the jury is the proper trier of contested facts. *Arbaugh v. Y & H Corp. dba The Moonlight Café*, No. 04-944 fifth circuit 2006, quoting *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S.133, 150-151 (2000).

All that a Plaintiff has to do to defeat Summary judgment is to produce some evidence creating a genuine issue of material fact. *EEOC (Ronald W. Willis, F Appellant) v. Avery Dennison Corporation, Appellee)* 1997 FED App. 0019P (6 Cir.) .

Whether the Petitioner demonstrated on appeal that a genuine issue of material fact existed for trial?

Whether the Petitioner produced some evidence creating a genuine issue of material fact?

Whether Yanna- Trombley's being stopped from entering the Saturn/GM property to work on September 23 constitutes a material adverse action is a jury question?

Whether the withdrawal of Yanna- Trombley's earned wages from her bank account constitutes material adverse action is a jury question?

Whether the loss of her employment constitutes material adverse action is a jury question?

Whether the Supervisor Dave Salima's actions of stopping Plaintiff from calling 911 would dissuade or persuade a reasonable employee from making a complaint?

Whether the supervisor would have hung up the phone on Ms. Yanna- Trombley if she were a man?

Whether he would have hung up the phone a second time if Ms. Yanna- Trombley were a man?

Whether the Supervisors actions were hostile toward Yanna- Trombley?

Whether Supervisor Dave Salima's actions toward Ms. Yanna-Trombley are for a jury to decide?

When one displays hostility toward a gender or race in the work place, one may infer that the harassing atmosphere is "because of " the supervisor's hostility to Plaintiff's class membership. *Suders, Easton, 325 F. 3d 432 (3rd Cir. 2003)*

Title 29 ---Labor Sec. 1604.11 Sexual harassment (a) Harassment on the basis of sex is a violation of section 703 of title VII. (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Title VII provision contains materiality requirement and objective standard showing that reasonable employee would have found employer's challenged action materially

adverse, i.e. that challenged action could well dissuade reasonable employee from protected conduct. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e -3 (a).

To establish the element of a causal link a Plaintiff is required to "proffer evidence ' sufficient to raise the inference that Plaintiff's protected activity was the likely reason for the adverse action. *Zanders v. National R.R. Passenger corp., 898 F 2d, 1135 (6th Cir. 1990)*

Whether Appellate Court erred in not taking in consideration the undisputed fact that Saturn/ GM took Yanna- Trombley's earned wages from her bank account a few days after she testified against the employer supervisor for assault . See Second Amended Title VIII Complaint also see With drawl of earned wages reproduced at 13a 14a.

A reasonable employee facing the choice between retaining her job (and paycheck) and filing a discrimination complaint might well choose the former. That is to say , an indefinite suspension without pay could well act as a deterrent, even if the suspended employee eventually received back pay.

> Cf. Mitchell, 361 U.S., 292 ("[I] t needs no argument to show that fear of economic retaliation might often operate to induce aggrieved employees quietly to accept substandard conditions"). Thus, the jury's conclusion that the 37-day suspension without pay was materially adverse was a reasonable one; *Burlington Northern & Santa Fe Railway Co. v. White,* 126 S. Ct. 2405 U.S.,2006.

Whether Yanna- Trombley proffered sufficient evidence sufficient to raise this inference that her protected

activity was the likely reasons for being placed in Red Zone, stopped from calling the police, stopped from working and withdrawal of her earned wages?

The Sixth Circuit ...,holds that a plaintiff must show an "adverse employment action", which it defined as a "Materially adverse change in the terms and conditions" of employment. *364F. 3d, at 795* ....,holding that the challenged action must "resul[t] in an adverse effect on the 'terms, conditions, or benefits' of employment". *Von Gunten v. Maryland,* 243 F. 3d 858, 866 (C.A.4 2001) *Burlington Northern & Santa Fe Railway Co. v. White,* 126 S. Ct. 2405 U.S.,2006.

Yanna- Trombley had expected to retire some time in the year 2007 (emphasis added).

Defendant's Management Terry Wonderland sent Ms. Yanna- Trombley a letter after her termination to reinstate her to a disability position. However if Ms Yanna-Trombley did not qualify for the disability position Saturn/ GM would take an adverse action toward her by taking away all her years of service that she had worked so hard for. This letter from Saturn/GM management, Terry Wonderland regarded Yanna- Trombley as disabled and would not reinstate her unless she was disabled, reproduced at 15a.

Whether Defendant's letter is evidence of the Defendants perceived disability of the Plaintiffs (Yanna-Trombley) is for a jury to decide?

Whether the Defendant's letter is material issue of fact?

Whether Defendant's letter is evidence of classifying the employee as being disabled?

Whether Defendant's letter has an adverse effect on the 'terms, conditions, or benefits' of employment?

The term "disability" means, with respect to an individual- ..... or (C) being regarded as having such an impairment, Americans with Disabilities Act of 1990 Sec. 12102. [Section 3]

(a) Disputed Facts of United States Court of Appeals For the Sixth Circuit

(1) "The only even arguable adverse action shown in this case was the eventual termination of Yanna- Trombley's employment, which Yanna-Trombley argues alternatively was a firing or a constructive discharge and defendant maintains was a voluntary quit " See Order from Court of Appeals for the Sixth Circuit reproduced at 6a.

(2) Plaintiffs (Disputed Facts) Response to Saturn Corporation's (alleged) Un disputed Facts found at Docket 61of the District Court case 1:04-cv00026, See docket reproduced at 24a

When a motion for summary judgment is made and supported as provided in this rule , an adverse party may not rest upon the mere allegations or denials of the adverse party's pleadings , but the adverse party's response , by affidavits or as other wise provided in this rule , must set forth specific facts showing that there is a genuine issue for trial . If the adverse party does not so respond, summary

judgment , if appropriate shall be entered against the adverse party, Fed. R. Civ. P. 56 (e) .

Whether Yanna- Trombley set forth specific facts showing that there is a genuine issue for trial .

Whether Yanna- Trombley produced some evidence creating a genuine issue of material fact for trial?

(b) Un-Disputed Facts of United States Court of Appeals For the Sixth Circuit

(1.) Yanna- Trombley was placed in a disciplinary action because she made complaints.

(2.) Supervisor Dave Salima hung up the phone on Yanna-Trombley and again as she tried to dial 911.

(3.) Yanna Trombley was restricted from the Saturn/ GM property. (and could not get to work),see 19a.

(4.) There was an eventual termination of Yanna-Trombley's employment.

(5.) That Yanna -Trombley did work over 25 years for Saturn/ GM.

(6.) Saturn /General Motors took earned wages away from Yanna -Trombley, see 14a.

(7.) Put in disability job.

(8.) Coerced to sign documents, see 3a.

(9.) Document (s) not regularly used in Job and intended to screen out employees who may or may not need job assistance.

(10.) Employer supervisor knew that Ms. Yanna Trombley wanted to report actions she felt were threatening

to her and protected by Title VII when he disconnected her from the phone the first time and then the second time.

> According to the majority, §704(a) does not reach all retaliatory differences in treatment but only those retaliatory acts that "well might have dissuaded a reasonable worker from making or supporting a charge of discrimination." *Ante*, at 13 (internal quotation marks omitted). *Burlington Northern & Santa Fe Railway Co. v. White,* 126 S. Ct. 2405 U.S.,2006.

Whether the Appellate Court erred by not properly considering Plaintiff's undisputed facts and/or genuine issues of material fact .

The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there are no genuine issues as to any material fact and that the moving party is entitled to a judgment as a matter of law. Fed .R. Civ. P. 56 (c)

If satisfaction of an essential element of a claim for relief is at issue, however, the jury is the proper trier of contested facts. *Reeves v. Sanderson Plumbing Products, Inc.,* 530 U.S.133, 150-151 (2000).

All that a Plaintiff has to do to defeat Summary judgment is to produced some evidence creating a genuine issue of material fact. *EEOC (Ronald W. Willis, F Appellant) v. Avery Dennison Corporation, Appellee) 1997 FED App. 0019P (6 Cir.)*

Due Process

Any party may demand a trial by jury of any issue triable of right by a jury, Fed .R. Civ. P. 38 (b)

(a) Whether the United States Court of Appeals for the Sixth Circuit considered issues of procedural error that Plaintiff, Petitioner raised in her Appeal

Appeal Court's order states that " On Appeal, Yanna Trombley reasserts her claims", however Appeal Court's Opinion failed to discuses or mention the errors of process and procedure raised in Plaintiff's Appeal, see Order from United States Court of Appeals for the Sixth Circuit reproduced at 3a.

Whether the United States Court of Appeals for the Sixth Circuit erred by not considering whether the district court followed Rule 56 Process and Procedure.

> (b) For Defending Party . A party against whom a claim....is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment motion in the parties favor as to all or any part thereof. Fed .R. Civ. P. 56.
>
> Case Not fully Adjudicated On . If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion , by examining the pleadings and evidence before it and

by interrogating counsel, shall if particle ascertain what material facts exists without substantial controversy and what material facts are actually and in god faith controverted .

It shall thereupon make an order specifying the facts that appear with out substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action that are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly. Fed .R. Civ. P. 56 (d).

(b) Whether the United States Court of Appeals for the Sixth Circuit has erred by not considering that disputed facts remained ?

Whether the United States Court of Appeals for the Sixth Circuit has erred by not considering Plaintiff's issue of error of the District Court denying Plaintiff's Motion for the District Court to send the Plaintiff's Response to Defendants Undisputed Material Facts in Support of Plaintiff's Appeal to the United States Court of Appeals for the Sixth Circuit, see 18a.

Whether the United States Court of Appeals for the Sixth Circuit. has erred by not considering Plaintiff's Motion was denied by the District Court because Plaintiff's disputed facts contained in her response would place matters before the appellate court that are contrary to the District Courts Memorandum and order, see 18a.

LR 56.01(c) Response to Statement of Facts. Any party opposing the motion for Summary Judgment must respond to each fact set forth by the movant either ....iii or demonstrating that the fact is disputed. ..... The response must be made on the document provided by the movant or other document in which the non- movant has reproduced the facts and citations verbatim as set forth by movant

Yanna- Trombley presented the issue to the Appellate Court that proper procedures were not taken in accordance with Fed. R. Civ. P. 56 (d), reproduced at 25a and 26a.

The docket provided evidence that there was no hearing of the motion as Ordered by Judge Higgins . There was no examining the pleadings and evidence before it and by interrogating counsel to ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith converted. There was no order specifying the facts that appear without substantial controversy, according to Fed R. Civ. Rule 56 (d) .

It shall thereupon make an order specifying the facts that appear without substantial controversy , including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just, Fed R. Civ. Rule 56 (d) .

There shall be no motion day. All motions shall be in writing and shall be decided by the Court with out oral hearings unless otherwise ordered by the Court; LR78.01.

The Honorable Judge Higgins on October 20, 2004 Ordered that after Motions for summary Judgment he will

have another conference and set a pretrial date, pretrial conference date and a trial date, see transcript of hearing before the Honorable Thomas A. Higgins page 39 lines 2-7, reproduced at 12a.

However extreme prejudice resulted when on about April 26, 2005 the action was transferred to the Honorable Judge Haynes Jr. and there was no hearing , and or conference as ordered by Judge Higgins pursuant to Fed. R. Civ. P. 56 (d) and Local Rule LR 78 .01 . There was no Third Pretrial Procedure; Resolution of discovery Disputes . Jointly signed discovery/ protective order dispute statement setting forth precisely the remaining issues in dispute and the reasons why these issues remain unresolved.[1]

Petitioner, demonstrated that defendant withheld evidence that was used against Petitioner, in Summary Judgment.

Petitioner, filed a timely Motion for relief from order pursuant to Federal Rules of Civil Procedure Rule 60 (b). However on September 28, 2006 the District Court denied the Rule 60 (b) Motion.

Failure to Disclose ; False or Misleading Disclosure; (1) A party that without substantial justification fails to disclose information required by **Fed. R. Civ. P. 26 (a) or 26 (e)(1)** or to amend a prior response to discovery as required by **Fed. R. Civ. P. 26 (e)(2),** is not unless, such

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[1] Page 47 of Practice and Procedure Manual of Judge and Magistrate Judges United States District Court Of Tennessee Columbia Division.

failure is harmless, permitted to use evidence at trial, at hearing or on motion any witness or information not so disclosed. Fed .R. Civ. P. 37(a) (c)

(c) Whether the United States Court of Appeals for the Sixth Circuit. has erred by considering unsupported statements with out supporting documents and /or evidence used to make their decision for Defendant.
Fed .R. Civ. P. 37(a) (c). Factual Issues are supposed to be resolved by the jury.

(d)Whether the United States Court of Appeals for the Sixth Circuit. has erred by not considering that Plaintiff was protected under Title VII because she had filed a previous lawsuit which resulted in the Federal Settlement Agreement to be reinstated, see 22a.

In error Appeal Court stated in 2002, the parties settled a previous ADA action filed by Yanna- Trombley, and she was reinstated. see Order Court of Appeals for the Sixth Circuit reproduced at 3a. This statement is unsupported and disputed by Plaintiff. The record shows that in 2002, the parties settled a previous Title VII action filed by Yanna- Trombley, see 22a. Whether Yanna-Trombley was not reinstated according to Federal settlement agreement is a question for a jury.

(1) Whether the United States Court of Appeals for the Sixth Circuit. has erred by considering that " Nothing was presented to establish a causal connection between Yanna- Trombley's Title VII activity and her alleged firing or constructive discharge." see Order Court of Appeals for the Sixth Circuit reproduced at 6a and THRC complaint

filed August 15, 2003.

However the record contains direct evidence of a causal connection between Yanna- Trombley's prior Title VII Law Suit , participation in protected Title VII activity and her alleged firing or constructive discharge and other retaliatory acts."

(2) Whether the United States Court of Appeals for the Sixth Circuit. has erred by confusing the facts and element s Plaintiff needed to show Constructive Discharge in Plaintiff's case. 'the eventual termination of Yanna-Trombley's employment, which Yanna- Trombley argues alternatively was a firing or a constructive discharge and defendant maintains was a voluntary quit. This dispute is not material because, even accepting Yanna- Trombley's version of the facts, she failed to show that she was replaced by a younger person or that a younger person was not terminated for comparable conduct." See Order States Court of Appeals for the Sixth Circuit reproduced at 6a.

(3) Whether the United States Court of Appeals for the Sixth Circuit. has erred by confusing the elements and facts needed to show hostile work environment in Plaintiff's case. " Yanna- Trombley alleged that she felt threatened by people making faces at her,". See Order from United States Court of Appeals for the Sixth Circuit reproduced at 7a.

However, the Plaintiff presented evidence that the same employee (person), named in first Title VII Law Suit was threatening when Petitioner /Plaintiff returned to work after

participating in that first Title VII Law Suit . See Order from Court of Appeals for the Sixth Circuit reproduced at 7a.

Plaintiff presented overwhelming evidence that Plaintiff was being coerced to sign different and unfamiliar (documents) devices that shown on the face of them to discriminate against her. Plaintiff presented evidence that she was coerced in to signing papers that went against settlement agreement on the first day back or she would not be put on the pay role.

The Appeal Court says " Yanna- Trombley's subjective perceptions and vague allegations were not sufficient to state a claim. *Id. At* 464." See Order from United States Court of Appeals for the Sixth Circuit reproduced at7a .

(4) Whether the United States Court of Appeals for the Sixth Circuit has erred by deciding that " The record in this case presents no genuine issue on any of Yanna-Trombley's Claims." See Order from United States Court of Appeals for the Sixth Circuit reproduced at 6a

(5) Whether the United States Court of Appeals for the Sixth Circuit has erred by deciding that " The only even arguable adverse action shown in this case ....." See Order from United States Court of Appeals for the Sixth Circuit reproduced at 6a

(6) Whether the United States Court of Appeals for the Sixth Circuit has erred by confusing the facts and unsupported finding of being reinstated and treated in every way same as the other employees . See Order Court of Appeals for the Sixth Circuit reproduced at 5a

Whether Defendant Saturn /GM intentionally placed Yanna- Trombley into the Red Zone, intentionally restricted her from the property so she could not work, intentionally took her earned wages from her and /or intentionally stopped her from calling the police, are for a jury to decide.

Employers who discriminate are not likely to announce their discriminatory motive. Plaintiff's circumstantial proof of discrimination can also be used by the plaintiff to show pretext. *Texas Depart. of Community affairs v Burdine* 450 U.s., at 255, n. 10, 101 S. Ct., at 1095, n. 10.

Reasons for Granting the Petition

Judge Patricia M. Wald of the District of Columbia Circuit had commented:

I believe our circuit's experience shows that we are now at a stage where the focus should be on ensuring that summary judgment stays within its proper boundaries, rather than on encouraging its unimpeded growth. Its expansion across subject matter boundaries and its frequent conversion from a careful calculus of factual disputes (or the lack thereof) to something more like a gestalt verdict based on an early snapshot of the case have turned it

into a potential juggernaut which, if not carefully monitored, could threaten the relatively small residue of civil trials that remain.[2]

Conclusion

Review by this Court is necessary to ensure the proper interpretation of Title VII and to uphold Process and Procedures thus defending public interest concerning Civil Rights.

Respectfully submitted ; January 25, 2007

Marie K. Yanna- Trombley - ph. 931 270-9688
1090 Spring Place Road ,
Lewisburg , Tennessee , 37091

[2] Patricia M. Wald, Summary Judgment at Sixty, 76 TEX. L.REV. 1897,1917 (1998). From Collin J. Cox, Reconsidering the Sham Affidavit Doctrine, 50 Duke L.J. 261 (2000)

NOT RECOMMENDED FOR FULL -TEXT PUBLICATON

FILED
JUL 20 2006
LEONARD GREEN,
Clerk

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

No. 05-6419

UNITED STATES COURT OF APPEALS FOR THE SIXTH CORCUIT

MARIE K. YANNA-TROMBLEY
Plaintiff-Appellant,
v.
SATURN CORPORATION, a subsidiary of General Motors Corp.,
Defendant-Appellee

ORDER

Before: DAUGHTREY and COOK, circuit Judges; COLLIER, Chief District Judge .*

Marie K. Yanna-Trombley, a Tennessee citizen, appeals pro se the summary judgment for

defendant in an employment discrimination action filed pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. § 1201 et seq., the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e seq., an the Tennessee Human Rights Act, Tenn. Code Ann. § 4-21-101 et seq. This case has been referred to a panel of the court pursuant to Rule 34(j)(1), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Yanna- Trombley filed a complaint against her former employer alleging discrimination based on disability, age, and retaliation for conduct protected under Title VII. She alleged that defendant created a hostile work environment and constructively discharged her, Defendant moved for

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* The Honorable Curtis L. Collier, United States Chief District Judge for the Eastern District of Tennessee, sitting by designation.

Summary judgment, and Yanna- Trombley filed a response. The district court granted judgment for defendant. On appeal, Yanna- Trombley reasserts her claims.

Upon de novo review, we conclude that the summary judgment for defendant must be affirmed, as there is no genuine issue of material fact, and defendant was entitled to judgment as a matter of law. *Mitchell. Toledo Host.*, 964 F. 2d 577, 581 (6th Cir. 1992)

The record shows that Yanna- Trombley was employed by General Motors since 1977. In 1991, she transferred to Saturn, In 2002, the parties settled a previous ADA action filed by Yanna- Trombley, and she was reinstated. Yanna-Trombley alleged that she was made to sign an employment agreement form which she felt was inconsistent with the settlement agreement, but which defendant stated was standard practice. She was also placed in a temporary position, which she objected to, until she was able to transfer into a regular assembly line position. Her pay rate remained the same. In January 2003, Yanna- Trombley complained that a co-worker was waving at her and making faces, which she felt threatened by. Shortly thereafter, she was transferred away from that employee. Later, she complained that another co- worker was interfering

with her work and implying that she was not capable of doing her job. This co-worker went on disability leave shortly afterwards. In March and April of 2003, Yanna-Trombley complained that a co-worker was leaving supplies in her work area to cause her to trip. In June, she complained that a supervisor pushed her. Defendant explained that Yanna- Trombley was working in a congested area. Yanna- Trombley filed an EEOC complaint. In August, Yanna- Trombley refused to sign a form that indicated that she was in a "Red Zone, " a type of disciplinary probation.

On September 20, Yanna - Trombley refused to sign a form indicating which vehicles she had worked on during that shift, which she believed would constitute an admission by her that she needed assistance. She also refused to attend a meeting to discuss her refusal to sign this form. In stead she attempted to call her husband from a telephone in her work area. Her supervisor hung up on her call. Yanna- Trombley then went to her locker and collected her things. She returned to the phone and attempted to call 911; the supervisor hung up on her again. She then left the plant. Defendant attempted to schedule meetings with Yanna- Trombley on September 23 and 26, but

Yanna-Trombley claimed that she did not get notice of either meeting until after the meeting times. She attempted to return to work on September 23 but was turned away by a guard in the parking lot. Defendant informed her that she was considered to have voluntarily quit. In February 2004, defendant offered to allow Yanna- Trombley to apply for disability, but Yanna- Trombley refused the offer.

Yanna- Trombley asserted that defendant discriminated against her on the basis of a perceived mental disability. She was required to establish that defendant regarded her as disabled in order to state a claim. *Sutton v. United Air lines, Inc.*, 527 U.S. 471, 489 (1999). The record is lacking any such evidence. Defendant reinstated Yanna- Trombley to a regular job and treated her in every way the same a other employees.

Yanna- Trombley also asserted that defendant discriminated against her on the basis of her age. The record lacks any direct evidence of age discrimination. Yanna- Trombley could establish a prima facie case, however, by showing that she is over forty, that she was qualified for her job, that she was subjected to an adverse employment action, and that she was replaced by a younger person or treated differently than a younger person for the same conduct. *See Talley v. Bravo Pitino Rest,*. 61 F. 3d 1241, 1246 (6th Cir. 1995). An adverse employment

action has been defined as a materially adverse change in the conditions of employment. *Hollins v. Atlantic Co.,* 188F. 3d 652 (6th Cir. 1999). The only even arguable adverse action shown in this case was the eventual termination of Yanna- Trombley's employment, which Yanna- Trombley argues alternatively was a firing or a constructive discharge and defendant maintains was a voluntary quit. This dispute is not material because, even accepting Yanna- Trombley's version of the facts, she failed to show that she was replaced by a younger person or that a younger person was not terminated for comparable conduct.

Yanna- Trombley also alleged that she was retaliated against for her prior lawsuit and her EEOC filing, conduct protected by Title VII. To state a claim, she was required to show that defendant knew of her protected activity, an adverse employment action was taken against her, and there was a causal connection between her activity and the adverse action. *Abbott v. Crown Motor*

Co., 348 F. 3d 537, 542 (6th Cir. 2003). Nothing was presented to establish a causal connection between Yanna- Trombley's Title VII activity and her alleged firing or constructive discharge.

Yanna- Trombley alleged a hostile work environment based on discrimination. She was

required to show harassment based on her age, disability, or retaliation , which interfered with her work and which defendant failed to prevent or correct. *Bowman v. Shawnee State Univ.,* 220 F.3d 456, 462-63 (6th Cir.2000). Yanna- Trombley alleged that she felt threatened by people making faces at her, being forced to work in close quarters, and being required to sign paperwork and attend meetings. Yanna- Trombley's subjective perceptions and vague allegations were not sufficient to state a claim. *Id. At* 464.

Finally, Yanna- Trombley alleged that she was constructively discharged. Such a claim requires a showing that repentant deliberately created intolerable working conditions as perceived by a reasonable person with the intention of forcing an employee to quit. *Logan v. Denny's, Inc.,* 259 F.3d 558, 568-69 (6th Cir. 2001). Nothing was presented in this case which would be perceived by a reasonable person as intolerable.

The record in this case presents not genuine issue of material fact on any of Yanna-Trombley's claims. The Summary judgment for defendant is therefore affirmed. Rule 34(j)(2)(C), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

"s/ Leonard Green "
Clerk

No 05-6419

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MARIEK. YANNA- TROMBLEY.
Plaintiff- appellant,
v.
SATURN CORPORATION, A SUBSIDIARY OF GENERAL MOTORS, CORPORATION,
Defendant-Appellee,

FILED
OCT 27 2006
LEONARD GREEN, Clerk

ORDER

BEFORE: DAUGHTREY and COOK, Circuit Judges; and Collier, * District Judge.

The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of this court, and no judge of his court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT

"s/ Leonard Green "
Leonard Green, Clerk

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* Hon. Curtis L. Collier, chief United States District Judge for the Eastern District of Tennessee, sitting by designation.

Case No: 05-6419

ORDER

FILED
NOV 13 2006
LEONARD GREEN, Clerk

MARIE K. YANNA- TROMBLEY
Plaintiff - Appellant

v.

SATURN CORPORATION, a subsidiary of General Motors, Corp.
Defendant - Appellee

BEFORE: DAUGHTREY and COOK, Circuit Judges; COLLIER, District Judge*

Upon consideration of the appellant's motion to stay mandate,

It is ORDERED that the mandate be stayed to

allow appellant time to file a petition for a writ of certiorari, and thereafter until the Supreme Court disposes of the case, but shall promptly issue if the petition is not filed within ninety days from the date of final judgment by this court.

ENTERED BY ORDER OF THE COURT

"s/ Leonard Green / sgc"
Leonard Green, Clerk

* the Honorable Curtis L. Collier, Chief U.S. District Judge for the Eastern District Of Tennessee, sitting by designation.

Completed
And when that comes in, I am going to
hold another conference and fix a date for motions,
dispositive motions, motions for summary judgment.
Then after those matters are handled, I
Will have another conference and set a pretrial date,
pretrial conference date and a trial date.

Ms. Johnson: Yes, judge.

NATIONAL BANK

Member FDIC primary Account: 7764731
Page 1 of 3

Last statement: September 09, 2003
This statement: October 08, 2003
Total days in statement period: 30 9

Direct Inquiries to
1 St Farmers & Merchants National Bank
P.O. Box 1148
Columbia, TN 38402-1148

MARIE YANNA TROMBLEY
1090 SPRINGPLACE RD
LEWISBURG TN 37091

The Trust & Financial Management Department can help you plan for retirement, set investment goals and manage your assets. Call 388-3145 or 800-882-8378 today for an appointment.

Regular Checking
Account Number 0007764731
Enclosures 9

Low balance	$31.95
Average balance	$183.61
Avg collect	$183.00

Daily Activity

Date	Description	Additions	Subtractions	Balance
09- 08	Beginning balance			$197.83
09-10	Check 266		-52.18	145.65
09-15	'Preauthorized Credit GENERAL MOTORS EDI PAYMENT 030915 SA20437317	1,490.90		1,636.55
09-15	Check 270		-1400.00	236.55
09-15	Check 268		-22.01	214.54
09-17	Check 272		-11.97	202.57
09-24	Check 273		-93.31	109.26
09-29	Check 274		-10.00	99.26
09-30	'Preauthorized Credit GENERAL MOTORS EDI PAYMENT 030930 SA20444117	1,451.86		1,551.12
10-01	'Preauthorized Wd GENERAL MOTORS EDI PAYMENT 030930 SA20444117R		-1,451.86	99.26
10-02	Check 275		-25.98	73.28
10-07	Check 276		-32.33	40.95
10-08	Check 277		-9.00	31.95
10-08	'Maintenance Fee		-6.00	25.95
	Ending totals	2,942.76	-3,114.64	$25.95

Saturn Corporation
100 Saturn Parkway
P.O. Box 1500
Spring Hill, TN. 37174-1500

To: Maria Yanna- Trombley
From: Terry Wonderlin
Date: February 2, 2004

Subject: Agreement and Release between Saturn and Maria Yanna- Trombley

Agreement and Release between Saturn and Maria Yanna- Trombley

Conditioned upon a) your agreement that this Agreement and Release will constitute a full and final release of any and all claims or grievances that you have or might have against Saturn (and GM) and their current or former employees and your bargaining representatives; b) your effecting a full and final withdrawal or dismissal of any administrative claims or charges (except for any unemployment or workers' compensation claim) or any other litigation involving Saturn, GM, or their current or former employees; c) your directing your bargaining representatives to withdraw all grievances; d) your agreement to waive and relinquish any contractual seniority rights and agreement to never again work or seek to work for Saturn or GM; and, e) your bargaining

representative's actually and finally withdrawing all grievances and demands related to your employment with and/or separation from Saturn, Saturn and General Motors will permit you to be reinstated for the sole purpose of applying for Sickness and Accident (S & A), Extended Disability Benefits (EDB) and /Or Total and Permanent Disability Retirement (T& PD) benefits. Saturn and GM have made no commitment regarding the ultimate determination on such application. In addition, the bargaining parties and Ms. Yanna -Trombley understand and agree that this settlement does not require, and will not include, any retroactive back pay o benefits coverage, including Health Care, S&A, EDB, etc. By offering and entering into this Agreement and Release, Saturn and GM are not admitting any wrongdoing or liability. Saturn (and GM) expressly deny that you have been the subject of any unlawful or inappropriate treatment. In presenting this offer, Saturn is making an effort to seek a compromise in order to avoid the costs, burdens, and uncertainty of litigation.

Ms. Yanna-Trombley is releasing her employer and unions from any and all claims. As such, she will permitted 21 days to consider this offer. She is also encouraged to review the terms of this agreement with an attorney of her choice; whether she does so is her choice exclusively. If executed, Ms Yanna-Trombley will be permitted 7 days to revoke this

agreement. Revocation can be made by delivering a written Notice of Revocation to Terry Wonderlin, c/o Saturn Corporation, 100 Saturn Parkway, P.O. Box 1500, Spring Hill, TN 37174-1500. For this revocation to be effective, written notice must be received by Terry Wonderlin no later than the close of business on the seventh (7) day after employee signs this Agreement. If Employee revokes this Agreement it shall not be effective or enforceable and Employee will not receive the benefits described above.

Agreed and accepted:

_____	"s/ T Wonderlin"
Maria Yanna- Trombley	Management
SS# _____	Date 2-3-04

CM/ECF -DC V2.5 (October 2005) -Docket Report

01/26/2006 105 ORDER denying 103 Motion for response to deft's stmt of undisputed material facts to be transmitted to US Court of Appeals in support of appeal (mtn denied as an effort to place matters before the Court contrary to the Court's order and Local Rule 8b7. Pltf has filed a notice of appeal).. Signed by Judge William J. Haynes on 1/24/06. (mk,) (entered: 01/26/ 2006)

From the THRC?EEOC file:
Note to File
Date August, 2003

Subject: Yanna Placed in Red Zone (Sharon Eppler)
"I am trying to retain, and I wrote down things afterwards unfortunately because it all went by so strangely. I said at that point I think that we may be done with this."

THRC/ EEOC file exhibit 22, Rpt # 031R-0734 / 9-23-03

Officer. Name: Mark Murphy "Pursuant to a directive from PSC S. Eppler, T/M Marie Yanna-Trombley and spouse Ed Trombley were stopped and denied access due to restriction status, by S/O Lumpkins. ", "...., I observed the vehicle leaving and Marie talking to SFO Ray from her passenger side window.

Incident Report Maury County Sheriff's Department
TN 0600000

Case No. 2003-04129
Reporting Officer T-DiLizD

Report Class offense Report type intial
Occurrence date 9-20-03
Occurrences time 10:48 pm
Times TR 2128 TD 2152 TA 2152
Incident Location Saturn

Offense Assault UCR code 13 A
TCA code 39-13-101

Offender Last First
Salima Dave
Address Works at Saturn, Management OMA
/sex Male

Victim Last First Middle Home phone
Trombley Marie Yanna 270 9688
Address
1090 Spring Place Rd. Lewisburg TN 37091
DOB Age Height Weight Eye Hair
0-01-56 5'3" 110 Br. Br.
Driver's License # State
75546378 TN

Some of the important information reproduced from Police report

CM/ECF - DC V2.5 (October 2005) - Docket Report

09/28/2006 111 ORDER : From the Court's review this 110 Motion for Reconsideration does not present any matters to justify the relief sought. This 110 Motion for Reconsideration is denied. Signed by Judge William J. Haynes on 9/28/06. (km) (cc: 6CCA via Email) (Entered: 09/28/2006)

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE COLUMBIA DIVISION

RECEIVED in clerk's office
Aug 21 2002
U.S. DISTRICT COURT MID.DIST. TENN.

FILED
US DISTRICT COURT
MIDDLE DISTRICT OF TENN
AUG 30 2002

BY _____
DEPUTY CLERK

CASE No. 1-02-0045
Judge Thomas A. Higgins
Magistrate Judge Juliet Griffin
Jury Demand

MARIE K. YANNA- TROMBLEY
VS.
SATURN CORPORATION

AMENDED COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred

on the Court by 42 U.S.C. SECTION 2000e-5. Equitable and other relief are also sought under 42 U.S. C. section 2000e-5 (g) .

2. Plaintiff, Marie K. Yanna-Trombley is a citizen of the United States and resides at 1090 Spring Place Rd. Marshall County, Lewisburg, Tennessee 37091; telephone number 931-270-9688

3. Defendant Saturn Corporation lives at, or its business is located at 100 Saturn Parkway P.O. Box 1500, Spring Hill , Maury County, Tennessee 37174.

4. Plaintiff sought employment from the defendant or was employed by defendant at 100 Saturn Parkway, Spring Hill, Maury County, Tennessee 37174.

5. Defendant discriminated against plaintiff in the manner indicated in paragraphs 8-9 of this complaint on or about 20, June 2001.

6. Plaintiff filed charges against the defendant with the Tennessee Human Rights Commission or the Equal Employment Opportunity Commission charging the defendant with the acts of discrimination indicated in paragraphs 8-9 of this complaint on or about 04, October 2001.

CM/ECF- DC V2.5 (October 2005)- Docket Report

Page 5 of 10

1/14/2005 42 MOTION by Pltf to amend complaint (w/attached second amended complaint) (km) (entered: 01/14/2005)

CM/ECF- DC V2.5 (October 2005)- Docket Report

Page 6 of 10

03/25/2005 61 RESPONSE by Pltf to stmt [50-1] (km) (Entered: 03/28/2005)

CM/ECF- DC V2.5 (October 2005)- Docket Report

Page 7 of 10

O7/15/2005 73 ORDER granting [42] Motion to Amend/Correct . Signed by Judge William J. Haynes on 7/14/05. (km) (Entered: 7/15/2005)

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5. What specific issues do you wish to raise on appeal/

Whether the court based their decision on documents that Ms. Trombley compelled at Dockets 17,33, and 38, including the alleged voluntary quit policy or reinstate/rehire policy in which Saturn Corporation may now be in contempt of court by not supplying to Ms. Trombley. See dockets 68, 70, and 71.

Whether the court erred by citing **Fed. R. Civ. P. 56 (d)** when there was no motion or hearing as described in **Fed. R. Civ. P. 56 (d)** and facts that exist with substantial controversy?

Whether the Court is in error by ruling in favor of Appellee as the Appellant Ms. Trombley sought evidence that has been concealed? No Policy exist because Saturn did not produce the alleged process and procedures concerning alleged policy causing a Federal Court Agreement to reinstate a person to sign a Employment agreement, or an alleged volunteer quit policy. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. **Fed. R. Civ. P. 56 (e)** A Party that without substantial justification fails to disclose information required by **Fed. R. Civ. P. 26 (a)or 26(e)(1)** or to amend a prior response to discovery as required by **Fed. R. Civ. P. 26 (e) (2),**is not unless, such failure is

Harmless, permitted to use evidence at trial, at hearing or on motion any witness or information not so disclosed. **Fed. R. Civ. P. 37 (c)** and the court order Appellee Saturn Corp. to disclose the process and procedures for reinstating the Ms. Trombley as per the settlement agreement . See Docket 38 and Docket 68 order.

Whether Court erred in calling and treating the Declaration of Sharon Eppler as a sworn Affidavit?

Whether all the claims had been adjudicated on pursuant to **Fed. R. Civ. P. 54 (b) and Fed. R. Civ. P. 60**

The order granting the Defendants' motion for summary judgment (Docket No. 75 from the United State District Court for the Middle District of Tennessee, Columbia Division should be reversed.

Respectfully submitted:
"s/ *Marie K. Yanna-Trombley* "
Marie K. Yanna-Trombley Ph. 931 270-9688
1090 Spring Place Road
Lewisburg, Tennessee, 37091

Supreme Court, U.S.
FILED

061303 JAN 25 2007

OFFICE OF THE CLERK

No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Marie K. Yanna - Trombley
Plaintiff, pro se,
Petitioner

v.

Saturn Corporation
(Subsidiary of General Motors Corp.)
Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI

Waverly D. Crenshaw,
Monica Johnson
Waller Lansden
Dortch & Davis, PLLC
Nashville City Center,
511 Union Street,
Suit 2700
P.O. Box 198966
Nashville, TN. 37219-8966
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Counsel for Respondent

Marie Yanna-Trombley
1090 Spring Place Road
Lewisburg, TN. 37091
(931)2709688
Pro Se,
Petitioner

TABLE OF CONTENTS

SUPPLEMENTAL APPENDIX

Reproduced by
Marie K. Yanna- Trombley

District Court Order granting the Defendants' motion for summary judgment, August 30, 2005. . . . . 27a.

District Court Memorandum granting Defendants' motion for summary judgment, August 30, 2005. . . . . .28a.

Order by Honorable Judge Higgins November 24, 2004 . . . . . .47a.

Order by Honorable Judge Haynes granting Plaintiff Motion to Amend Complaint July 14, 2005. . . . . 48a.

Continued....

Other Material that Petitioner believes essential to understand the petition

Excerpts from Plaintiffs Second Amended Complaint, January 14, 2005. . . . . 50a.

Clerical err by District Court in Caption. . . . . 62a.

District Court refers to Eppler's un sworn Declaration as being an affidavit. . . . . 63a.

Docket Report of Defendants' declaration of Sharon Eppler. . . . . .64a.

Closing of Supplemental Appendix to Petition for Writ of Certiorari

Closing of Supplemental Appendix. . . . . 65a.

IN THE UNITED STATED DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY Plaintiff,	)	
v.	)	NO. 1:04-0026
	)	JUDGE HAYNES
SATURN CORPORATION, Defendant.	)	

ORDER

In accordance with the Memorandum filed herewith, the Defendants' motion for summary judgment (Docket Entry No. 48) is GRANTED. This action is DISMISSED with prejudice.

This is the Final Order in this action.

It is so ORDERED.

ENTERED this the 30th day of August, 2005.

" s/ William J. Haynes Jr."
William J. Haynes, JR
United States District Judge

Case 1: 04-cv-00026 Document 74-1 Filed 08/31/2005
Page 1of 12

IN THE UNITED STATED DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY Plaintiff,	)	
v.	)	NO. 1:04-0026
	)	JUDGE HAYNES
SATURN CORPORATION, Defendant.	)	

MEMORANDUM

Plaintiff, Marie K. Yanna-Trombley, filed this action against the Defendant Saturn Corporation asserting claims for violations of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. ("ADA"); the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. ("ADEA"), and the Tennessee Human Rights Act, Tenn. Code Ann. § 4-21-

101 et seq. ("THRA") Specifically, Plaintiff alleges a hostile work environment because of her perceived disability and/or her age in violation of the ADA, the ADEA, and the THRA. Plaintiff also alleges that Saturn retaliated against Plaintiff after she complained about the alleged discrimination and hostile work environment in violation of the ADA, the ADEA, and the THRA. Finally, Plaintiff asserts that she was constructively discharged.

Before the Court is the Defendant's motion for summary judgment (Docket Entry No. 48), contending, in sum: (1) that Plaintiff does not have a "disability" nor did Saturn regard her as having any impairment as defined by the ADA; (2) that Plaintiff's proof fails to prove that Saturn took any adverse employment action against her because of her age or perceived disability; (3) that Plaintiff's was not subjected to any unwelcome conduct based upon her age or perceived disability; (4) that Saturn took prompt and appropriate corrective action upon

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Plaintiff's complaints about her co-workers; (5) that Plaintiff's retaliation claim fails because Saturn did not take

any adverse action against her that is causally connected to her complaints of alleged discrimination and harassment; and (6) that Saturn neither coerced nor encouraged Plaintiff to resign.

A. Findings of Fact [1]

Plaintiff worked as an Operations Technician at Saturn from 1991 until September 20, 2003. (Docket Entry No. 66, Trombley Deposition at pp. 20-22). Plaintiff was a member of Local 1853 of the International Union of the United Automobile, Aerospace, and Agricultural Implement Workers of America ("UAW"). Id. at 27. The terms and

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[1] Upon a motion for summary judgment, the factual contentions are viewed in the light most favorable to the party opposing the motion for summary judgment. Duchon v. Cajon Co., 792 F.2d 43, 46 (6th Cir. 1986) app. 840 F.2d 16 (6th Cir. 1988) (unpublished opinion). As will be discussed infra, upon the filing of a motion for summary judgment, the opposing party must come forth with sufficient evidence to withstand a motion for directed verdict, Anderson v. Liberty Lobby, 477 U.S. 242, 247-52 (1986), particularly where there has been an opportunity for discovery. Celotex Corp. Catrett, 477 U.S. 317 (1986). The Court concludes that there are not any material factual disputes. Thus, this section constitutes findings of fact under Fed. R. Civ. P. 56 (d).

conditions of Plaintiff's employment were governed by the Memorandum of Agreement and Guiding Principles, that is considered a collective bargaining agreement. Exhibit 7 thereto.

In May 2002, Plaintiff filed an action, Marie Yanna-Trombley v. Saturn Corp.. No. 1:02-0045, United Sates District Court, Middle District of Tennessee, Columbia Division, alleging that Saturn discriminated against her based upon a perceived mental impairment in violation of the ADA.. On October 30, 2002, Plaintiff signed a Settlement Agreement and General Release ("Settlement Agreement") that waived "all known and unknown claims, promises, causes of action, or similar rights of any type" that she could have brought in the

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lawsuit as of October 30, 2002 in exchange for reinstatement. Id. at p. 210 and Exhibit 7 thereto. The Settlement Agreement also stated, "In consideration for my agreement to the terms of this release,... I will be placed

either into a permanent opening on a team or into a temporary Common Module position until a permanent opening becomes vacant." Id. at Exhibit 7pp. 1-2. Pursuant to the Settlement Agreement, Plaintiff returned to work on December 2, 2002.

Under Saturn's policy and procedure, all employees who are newly hired, rehired, or reinstated at Saturn are required to sign an Employment Agreement. (Docket Entry No. 51, Attachment 3 thereto, Bradley Deposition at pp. 8-10). Plaintiff signed such an agreement. (Docket Entry no 66, Trombley Deposition at p. 94 and Exhibit 2 thereto).

In accordance with the Settlement Agreement, Plaintiff was placed in a temporary position until a permanent job position became available. Id. at p. 210. On March 1, 2003, Plaintiff applied for and, based upon her seniority, received a permanent position in the SUV 240 module without any change in pay or benefits. (Docket Entry No. 51, Attachment No. 6, Eppler Affidavit at ¶ 3 and Exhibit A thereto).

On January 27, 2003, Plaintiff complained to Lynne Anderson, Saturn's EEO Advisor, that Gary Goforth, a co-worker, had threatened her. Sharon Eppler, the people systems coordinator, investigated and learned that the offending conduct was that Goforth would wave at Plaintiff and Plaintiff considered that conduct "threatening and intimidating." (Docket Entry No. 66, Trombley Deposition at 79-80). After the investigation, Eppler told Plaintiff that she had spoken with Goforth and Plaintiff later transferred to a different area from Goforth's area. (Docket Entry No. 51, Attachment No.6 and Eppler Affidavit at ¶ 5, Exhibit B

thereto). Plaintiff later complained to Anderson and Eppler About Pam Czajka, a Co-worker.

Czajka told Plaintiff that she wanted to take Plaintiff "under her wing" and tried to help Plaintiff do her job. (Docket Entry No. 66, Trombley Deposition at 108). Saturn's staff ("Non-rep 01VIA"), met with Plaintiff and Czajka. Id.112. The staff members informed Plaintiff that Czajka' s behavior would not continue. Id. at 112. Czajka no longer attempted to help Plaintiff after that meeting. Id.

Plaintiff testified that another employee called her the "little Cockpit girl," and put retainer stock in her way and then said "don't' trip." Id. At the time Plaintiff worked on the cockpit line. Id. According to Eppler, Plaintiff did not report this incident to Saturn. (Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 4).

On June 26, 2003, Plaintiff complained to Anderson and Eppler that Carla Luster, a operations module advisor pushed her. Id. At Attachment No. 61, Eppler Affidavit at ¶ 6. Eppler investigated Plaintiff's complaints and interviewed team members who could have witnessed the

alleged conduct. Id. According to Eppler, in this small work area, Plaintiff, Luster and other team members would routinely bump into each other by accident. Eppler spoke with Plaintiff on July 21, 2003, about the results of her investigation and informed her that the matter was closed. Id. at ¶ 6.

On August 15, 2003, plaintiff filed an administrative charge with the Tennessee Human Rights Commission.

On September 18, 2003, a quality issue arose in Plaintiff's assigned area. Under its policies and procedures, Saturn implemented a "128 Job Aid" process to track quality issues. Id. Eppler Affidavit at ¶ 7, Exhibit C thereto. For this process, team members are required to complete a Job Aid Form with team member's name, the Vehicle Identification Number ("VIN")

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of the first vehicle that the team member worked on, and the VIN of the last vehicle in which the team member worked during the shift. Id at ¶ 8, Exhibit D. Plaintiff completed her form on September 18 and 19, 2003, Id. at Exhibit D, but on September 20, 2003, when Plaintiff refused to sign

the Job Aid Form, David Solima, Non-Rep OMA, reviewed the written policy on this process with Plaintiff and explained the need for her to sign the Form. Trombley Deposition at 142. Plaintiff continued to refuse to sign the Form. Id. 140. Plaintiff contends that Solima put the papers in her face and that the papers did not have to be signed by her.

Solima, Irwin and Luster, then met with Plaintiff about her refusal to sign, (Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 9), but Plaintiff refused to attend the meeting. Id. Plaintiff then ran to a telephone located on the production floor and make some telephone calls. Id. Solima and Theresa Plonkey, Area Module Advisor, advised Plaintiff that any telephone call should be made in the privacy of a conference room, not the production line. Id. at ¶ 12, Exhibit F at p. 2. Plaintiff ignored them and continued to make calls from the telephone on the production floor. Id. Solima then disconnected the telephone and Plaintiff struck his arm and began screaming. Id. at Exhibit F p.2. Plaintiff notes that Solima was red-faced and slammed the telephone receiver. Plaintiff began to run around the production floor and supervisors and members of Saturn security were called and advised Plaintiff to make her telephone calls in a conference room. Id. at p.3 Eppler followed Plaintiff and informed her to make her calls in private without disrupting the production line. Id. at ¶ 10. Plaintiff yelled, "No. No. No. No. No." and left the plant on September 20, 2003. Id. Plaintiff never returned to Saturn. Id. at ¶ 17.

Saturn scheduled a meeting with Plaintiff on

September 23, 2003, at 4:00 p.m. at Saturn's Visitor Center. Id. at ¶ 14. Terry Wonderlin, a team leader, called Plaintiff on September 23,

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2003, to remind Plaintiff of the meeting. (Docket Entry No. 66, Trombley Deposition at 168. Plaintiff's husband received Wonderlin' s message on September 23, 2003. Id. Plaintiff did not attend the meting, nor did she call to inform anyone at Saturn about her failure to attend the meeting, Id. at 176. About three hours later, Plaintiff and her husband arrived at Saturn's gates, but without their badges, they could not enter Saturn's property. Id. Plaintiff did not request to see Wonderlin, nor mention the meeting. Id. at 176. When Eppler learned that Plaintiff was at the gates, she met her, but Plaintiff left before arrangements could be made. (Docket Entry No. 51, Attachment No.6 Eppler Affidavit at ¶ 15). Plaintiff contends that Saturn security vehicles surrounded her and detained her for thirty minutes.

On September 23, 2003, Saturn sent Plaintiff a letter

setting a second meeting for 4:00 p.m. on September 26, 2003, at Saturn's Visitor Center to discuss the events of September 20, 2003. Id. at ¶ 6. This letter notified Plaintiff that Saturn would consider her employment terminated if she failed to attend this meeting. (Docket Entry No. 66, Trombley Deposition at Exhibit 4). Plaintiff received this letter on September 26, 2003, but she did not attend the meeting, nor contact Saturn about her inability to meet. Trombley Deposition at 183, 187. On September 29. 2003, Saturn sent Plaintiff a letter notifying her that it considered her to have voluntary quit effective September 20, 2003. Id. at Exhibit 6.

B. CONCLUSIONS OF LAW

To prove her ADA claim, Plaintiff must prove a disability under the Act. Bragdon v. Abbott, 524 U.S. 624, 630 (1998); Penny v. United Parcel Service, Inc., 128 F.3d 408, 414 (6th Cir. 1997). To prove a disability, Plaintiff must establish:

> (A) a physical or mental impairment that substantially limits one or more of [his] major life activities...,

(B) a record of such impairment; or
(C) being regarded as having such an impairment.

42 U.S.C. § 12102. "[A] defendant bears no burden of production or proof if the plaintiff cannot establish that he or she is disabled." Monette v. Electronic Data Sys., 90 F. 3d 1173, 1182 (6th Cir. 1996).

Plaintiff admits that she is not actually disabled. (Docket Entry No. 66, Trombley Deposition at 75), but asserts that Saturn regarded her as having mental deficiencies and having a record of a disability. Id. at 73.

For a "regarded as" claim under the ADA, Plaintiff must prove that Saturn mistakenly believed that she had an "impairment that substantially limits one or more major life activities," or that Saturn mistakenly believed that Plaintiff had an "actual, non limiting impairment substantially [that] limits one or more major life activities." Sutton v. United Air Lines. Inc., 527 U.S. 471, 489 (1999). " In both cases, it is necessary that a covered entity entertain misperceptions about the individual - it must believe either that one has a substantially limiting impairment that one does not have or that one has a substantially limiting impairment when, in fact, the impairment is not so limiting." Id.

Plaintiff cites co-worker' expressed concerns about her mental state after the September 20th incident on the production floor. Plaintiff admits that she did not know

about these workers statements until he received her file from the Equal Employment Opportunity Commission ("EEOC"). (Docket Entry No. 66, Trombley Deposition at 118, 120-21. These statements do not prove liability as to Saturn. See Smith v. Leggett Wire Co., 220 F.3d 752, 762 (6th Cir. 2000) (unlawful animus by low-level employees cannot be attributed to the employer).

Plaintiff must also present evidence that Saturn misperceived her as being unable to work

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in a broad class of jobs. See Sutton, 527 U.S. at 491-92; Murphy v. United Parcel Serv., 527 U.S. 516, 523 (1999) ("To be regarded as substantially limited in the major life activity of working, one must be regarded as precluded from more than a particular job."). Accord Moorer v. Baptist Mem'l Health Care Svs., 2005 U.S. App. LEXIS 2227, * 11 (6th Cir. Feb. 11, 2005), (an ADA Plaintiff must show Defendant considered Plaintiff as "unable to perform the same general type of work in the same geographic area.")

As applied here, Saturn assigned Plaintiff to a Operations Technician position and treated Plaintiff as it did other Saturn team members. Saturn required Plaintiff to sign an Employment Agreement, but required all rehired or reinstated team members, to do so. From her proof, Plaintiff is not substantially limited in any major life activity. Plaintiff's proof fails on her ADA claim.

As to Plaintiff's ADA claim for Saturn maintaining a "record of" her disability, Saturn has a medical record that indicates that Plaintiff has a mental impairment. To assert "record of" a substantially limiting impairment, however, "[t]he impairment indicated in the record must be an impairment that substantially limits one or more of the individual's major life activities." 29 C.F.R. §1630.2(k); see Edwards v. Ford Motor Co., 218 F. Supp, 2d 846, 851 (W. D. Ky. 2002) (a "record of" impairment claim requires showing that the plaintiff actually suffered an impairment that substantially limits one or more major life activities).

In her prior legal action, Plaintiff released all claims related to her pre- December 2002 employment. (Docket Entry No.66, Trombley Deposition at 210, Exhibit 7). Since Plaintiff's reinstatement on December 2, 2002, Saturn has not received or created any medical records related to Plaintiff. See Docket Entry No. 51, Attachment No. 5, Saturn's Response to Plaintiffs First Request for Production No. 1. Plaintiff has failed to prove that any such record is in

Saturn's possession. In any event, the possession of records alone fails to establish a claim under the ADA. Taylor v. United States Postal Service, 946 F. 2d 1214, 1217 (6th Cir 1991) (an employer's possession of an employee's medical record does not establish a "record of disability). Accordingly, as a matter of law, Plaintiff's "record of disability" claim under the ADA fails.

To prove her age discrimination claim, Plaintiff must present direct or circumstantial evidence of discriminatory treatment." Johnson v. Kroger Co., 319 F. 3d 858, 864-65 (6th Cir. 2003). Plaintiff's lack of direct evidence of discrimination requires her claim to met the standards in MacDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973). Thus, Plaintiff must show that: (1) she is a member of a protected group; (2) she was subject to an adverse employment action; (3) she was qualified for the position from which he was fired; and (4) she was replaced by someone outside the protected class, or she was treated differently that employees outside the protected class for the same or similar conduct. Id See also Talley v. Bravo Pitino Rest., LTD, 61 F. 3d 1241, 248 (6th Cir. 1995)).

Here, Plaintiff has not proved an adverse employment action and that she was subject to different treatment. An adverse employment action is a "materially adverse change in the terms or conditions of … employment

because of the employer's conduct." Mitchell v. Vanderbilt Univ., 389 F. 3d 177, 182 (6th Cir. 2004) (quoting Kocsis v. Multi-Care Mgmt., 97 F. 3d 876, 885 (6th Cir. 1996)). This change in employment conditions "must be more disruptive than a mere inconvenience or an alteration of job responsibilities." Id. Plaintiff fails to identify any adverse employment action based upon her age. Plaintiff signed an Employment Agreement,

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which did not affect her pay or status. Plaintiff's ADEA and THRA[2] claim fails as a matter of law.

To sustain a hostile work environment claim, Plaintiff must establish: (1) that she is a member of a

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[2] Plaintiffs age discrimination claim under the THRA is analyzed the same way as claims under the ADEA. See Watson v. Food Lion, Inc., 147 F. Supp. 2d 883, 884 (E.D. Tenn. 2000).

protected class; (2) that she was subjected to unwelcome harassment; (3) that the harassment was based on her age or perceived disability; (4) that the harassment had the effect of unreasonably interfering with her work performance by creating an intimidating, hostile, or offensive work environment; and (5) the existence of employer liability. See Newman v. Federal Express Corp., 266 F. 3d 401, 405 (6th Cir 2001)[3] The Court must consider the "totality of the circumstances," including: "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993). For any alleged "harassment" to be actionable, Plaintiff's work environment must have been so "permeated with discriminatory intimidation, ridicule, and insult that it was sufficiently severe or pervasive to alter the conditions of [her] employment." Harris, 510 U.S. at 21. Subject perceptions, vague allegations, or conclusory assertions are not probative. See Bowman v. Shawnee State Univ., 220 F. 3d 456, 464 (6th Cir 2000).

Plaintiff cites co-workers' treatment that Plaintiff

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[3] The standard for Plaintiff's hostile work environment claim under the ADA is the same as that used for hostile work environment claims under Title VII. See Coulson v. Goodyear Tire & Rubber Co., No. 00-3818, 2002 U.S. App. LEXIS 4623, *19 (6th Cir. March 14, 2002).

was lazy and that they felt sorry for her. Courts have held that such conduct is insufficient to establish a hostile work environment.

See Faragher v. City of Boca Raton, 524 U.S. 775, 788 (1998). Plaintiff does not establish that the alleged name-calling interfered with her work performance and therefore she fails to meet the fourth element of the required prima facie case. In any event , this alleged name-calling was not based on Plaintiff's age or perceived disability. Plaintiff's proof also fails to demonstrate a severity or pervasiveness necessary to prove a hostile work environment claim.

Moreover, to hold Saturn liable on these claims, Plaintiff must also prove that the employer knew or should have known of the harassment and failed to take prompt and appropriate corrective action. See EEOC v. Harbert-Yeargin, Inc., 266 F. 3d 498, 518 (6th Cir. 2001). Here, Saturn investigated promptly all of Plaintiffs complaints and took appropriate corrective action, removing the named co-worker form her area or stopping a repetition of the cited co-worker's statements or conduct.

To establish her retaliation claim, Plaintiff must show that (1) that she engaged in a protected activity; (2) that Saturn knew that she engaged in this protected activity; (3) that she suffered an adverse employment action; and (4) that a causal connection exists between the protected activity and the adverse employment action. See Abbott v. Crown Motor Co., 348 F.3d 537, 542 (6th Cir. 2003). For a constructive discharge claim, Plaintiff must show that (1) Saturn deliberately created intolerable working conditions, as perceived by a reasonable person, and (2) Saturn did so with the intention of forcing Plaintiff to quit. See Logan v. Denny's, Inc., 259 F.3d 588, 568-69 (6th Cir. 2001).

From her proof, Plaintiff did not suffer an adverse employment action after she complained about other employees. To the extent that Plaintiff asserts that her "termination" was an adverse employment action, Plaintiff has not proved any causal connection. Plaintiff voluntarily resigned while Saturn sought to discuss her continued work at Saturn. For the

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reasons stated on Plaintiff's other claims, Plaintiff's proof

could not support a judgment on this claim.

In sum, the Court's review of the proof does not support Plaintiff's claim. Thus, the Defendant's motion for summary Judgment should be granted.

An appropriate Order is filed herewith.

ENTERED this the 30th day of August, 2005.

" s/ William J. Haynes Jr."
William J. Haynes, JR
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K. YANNA-TROMBLEY	]	
V.	]	
SATURN CORPORATION	]	No. 1-04-0026
	]	Judge Higgins

ORDER

All discovery related motions shall be filed by the close of business on December 17, 2004.

Any further motions to amend the pleadings shall be filed by the close of business on January 14, 2005.

All dispositive motions shall be filed by the close of business on January 28, 2005.

No memorandum in support of or in opposition to any motion shall exceed twenty (20) pages. No reply shall be filed to any response unless invited by the Court.

Strict compliance is required to Rule 8 (b) (7) Local Rules of Court relating to motions for summary judgment.

It is so ORDERED.

" s/ Thomas A . Higgins "
Thomas A. Higgins
United States District Judge
11-24-04/

This document was entered on the docket in compliance with Rule 58 and/ or Rule 79 (a). FRCP, on 11/29/04 By " s/ km " (32)

case 1: 04-cv-00026 Document 73-1 Filed 07/15/2005
Page 1 of 1

FILED " s/ km "
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U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN
" s/ km "

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY	)
Plaintiff, pro se	) NO. 1-04-0026
	) Judge Thomas A.
v.	) Higgins
	) Magistrate
SATURN CORPORATION,	) Judge Knowles
(Subsidiary of General Motors Corp.)	) Jury Demand
Defendant	)

ORDER
This motion
is GRANTED
Fed. R. Civ. P. 15 (a)
" s/ William J. Haynes Jr."
7-14 -05

PLAINTIFF'S MOTION TO AMEND COMPLAINT

Comes now Plaintiff, Marie K. Yanna- Trombley, Pro Se and respectfully moves this court to allow Plaintiff

to make this second amendment to her original complaint so to state with particularity that :
(A) Amend to Paragraph 11: Defendant Saturn Corporation's Equal Employment Opportunity Advisor Lynn Anderson and Saturn financial Vickie Bradley, knowingly misrepresented the truth to the Plaintiff particularity on December 02, 2002. Plaintiff also felt the employment agreement was for temporary workers not represented by UAW. Plaintiff was told she had to sign the Employment Agreement in order for Plaintiff to return to work. Plaintiff was told she had to sign the Employment Agreement in order for Plaintiff to return to work. On about October 20, 2004 Plaintiff discovered that she was not reinstated as according to the settlement agreement.

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U.S. DISTRICT COURT
MID. DIST. TENN

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY Plaintiff, pro se	)
	) NO. 1-04-0026
v.	) Judge Thomas A
	) Higgins
SATURN CORPORATION,	) Magistrate Judge
(Subsidiary of General Motors Corp.)	) Knowles
Defendant	) Jury Demand

PLAINTIFF'S SECOND AMENDED COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

The Plaintiff, Marie K. Yanna- Trombley , pro se brings this complaint against the defendant, Saturn Corporation a subsidiary of General Motors Corporation, (hereinafter called "Saturn ") , as follows:

Jurisdiction and Venue

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the court by 42 U.S.C. , sections 2000e-5 et seq. and section 102 of the Civil Rights Act of 1991, 42 U.S.C., section 2000e-5(f)(3), the Age Discrimination in Employment Act of 1967 ("ADEA"), 29 U.S.C. section 621, et seq., 42 U.S.C., section 2000e 5(f)(3), the Civil

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Rights Act of 1991), 42 U.S.C., section 1981a, the Americans with Disabilities Act of 1990, (ADA"), 42 U.S.C. sections 12101 et. seq., which incorporates by reference the Civil Rights Act of 1964 42 U.S.C. section 1981a and the Tennessee Human Rights Act ("THRA"), Tenn. Code Annotated, Sections 4-21-102 et seq. Plaintiff for damages seeks equitable relief, back pay, compensatory damages, cost, interest and attorneys fees for age and disability discrimination as having been regarded as or having a record of a mental disability, hostile work environment, retaliation, and constructive discharge. Equitable and other relief are also sought under 42 U.S.C. section 2000e-5(g).

2. This action presents a Federal question (s) , jurisdiction in this court is invoked pursuant to 42 U.S.C. section 2000e-5, Section 1331 of Title 28, for claims arising under 29 U.S.C. 621 et seq. , 42 U.S.C. section 12101 et seq., 42 U.S.C. section 2000e-5(f)(3), 42 U.S.C. , 42 U.S.C., section 2000e-(g). Jurisdiction of this Court over the state claims set forth in this complaint is invoked pursuant to Tennessee Code Annotated, Section 4-21-101, et seq., in this Court's supplemental jurisdiction as provided in 28 U.S.C. , Section 1367. The amount in controversy exceeds $75,000.00, exclusive of interest and costs.

3. Venue for this action properly lies in this Court because all the acts complained of herein arise in this judicial district. And in particular Defendant Saturn Corporation is a subsidiary of General Motors Corporation and can be found and transacts business in this judicial district at 100 Saturn Parkway P.O. Box 1500, Spring Hill, Maury County Tennessee 37174. After the filing of the original complaint, the place of business has been renamed from "Saturn" to "G.M. Spring Hill Manufacturing". Venue is therefore proper in this Court.

4. On August 15, 2003, within three hundred (300) days of the last act complained of, Plaintiff filed charges with the Tennessee Human Rights Commission ("THRC"). Those charges included age and sex discrimination, disability discrimination as being regarded as having a disability, intimidation, coercion and harassment, retaliation/reprisal and continuing violation. Plaintiff received a notice of right to sue, executed by the EEOC area director, dated January 20, 2004; attached as Exhibit 1 and including attached copy of the charges filed with the Tennessee Human Rights commission or the Equal Employment Opportunity Commission, which charges are submitted as a brief statement of the facts supporting this complaint.

5. On October 29, 2003 , within three hundred (300) days of filing her intial complaint, Plaintiff filed a second charge with the THRC, wherein she alleged age discrimination, disability discrimination, being regarded as or having a record of having a mental disability, retaliation/reprisal, hostile work environment, harassment, constructive discharge and continuing action. Plaintiff received a second notice of right to sue, executed by the EEOC Area Director dated February 27, 2004; attached as Exhibit 2. and including attached copy of the charges filed with the Tennessee Human Rights commission or the Equal Employment Opportunity Commission, which charges are submitted as a brief statement of the facts supporting this complaint.

6. Plaintiff has filed suit within ninety (90) days of receipt of her Notices of Right to Sue.

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7. Plaintiff Marie K. Yanna- Trombley is a 48 year old female citizen of the United States and resides a 1090 Spring Place Road. Lewisburg, Marshall County, Tennessee 37091; Phone number (931)- 270 9688 and who has been employed by General Motors since 1977, and transferred to Saturn in 1991, and in particular now equaling a combined service of over 25 years.

8. In particular, Defendant Saturn Corporation is a subsidiary of General Motors Corporation with principal offices located at 300 Renaissance Center P.O. Box 300 Detroit, Michigan 48265-3000; mail code 482-C39-850.

9. Defendant is a " employer" as defined in 42 U.S.C., Section 2000(e) et seq. and Tennessee Code Anno., Section 4-21-102, in that the defendant employed , in particular more than five thousand (5,000) persons within the State of Tennessee at all times relevant to Plaintiff's claims .

10. Plaintiff was employed in the position of Operating Technician at Saturn, she had previously filed a Federal Discrimination Complaint against Saturn which was settled in October, 2002. Plaintiff returned to work at Saturn on December 2, 2002.

11. Saturn's retaliation against Plaintiff began almost immediately after she returned to work and continued thereafter on an ongoing basis creating a hostile work environment for her. In particular on Plaintiff's first day back to work management EEO Lynne Anderson caused Plaintiff to report to Vicky Bradley of Saturn's Financial at Bank of America to up date papers for Plaintiffs Benefits. There and with out union representation, Vicky Bradley and EEO Lynne Anderson, who was on the speaker phone

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, coerced Plaintiff to sign a employment agreement trying to undermined and redefined the terms of Plaintiff's legitimate expectations of being reinstated as according to the Federal Settlement Agreement. ..... Plaintiff was told she had to sign the Employment Agreement in order for Plaintiff to return to work....

13. Defendant's management , supervisors and Plaintiff's co-workers began a course of retaliatory discriminatory conduct shortly after Plaintiff's return to work in December, 2002, including but not limited to humiliating and ridiculing her, threatening, badgering and belittling her, unduly criticizing her, making false statements about her, and assaulting her.....

..... Defendant Saturn Corporation's later alleged PS team leader Terry Wonderlin and Saturn Corporation's PSC Sharon Eppler concealed material facts and made false statements concerning the Plaintiff on about August 06, 2003 when Saturn skipped over the Bargaining Agreement steps and tried to place Plaintiff in a red zone step, setting her up for discharge, publishing false information and accusations in the red zone contract, and disciplining plaintiff because she opposed discrimination by making complaints.

14. Such conduct interfered with Plaintiff's work and created a hostile and intolerable work environment....

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15. After Plaintiff notified Saturn's EEO, Management and the Union on about June 15, 2003, that she would file THRC and EEOC complaints, Defendant's retaliatory conduct escalated; even more so after Plaintiff filed the THRC complaint on August 15, 2003.

16. Defendant intentionally set Plaintiff up to insure that Plaintiff's employment would be terminated.

17. Particularly on September 20, 2003, Dave Salima, a large, six-foot, three inch Saturn supervisor interrupted Plaintiff's work and threatened and frightened Plaintiff trying to cause her to sign her legal name on a form. Plaintiff tried to continue to work but was stopped. While Plaintiff was on the factory floor column phone, to get help, Dave Salima hung the phone up. Plaintiff tried to redial but Dave Solima hit her hand away. Plaintiff then informed Dave Solima that she needed to call the police and Plaintiff attempted to redial the telephone to get help. Dave Salima continued to hit and slap her hands away from the phone, physically assaulting her..... The plaintiff left the premises and went to the Sheriff's Department to file Assault charges against Dave Solima..... In retaliation, Saturn/General Motors, withdrew plaintiffs complete pay deposit being $ 1,451. 86 from her bank account and has not paid or returned the plaintiff's wages she earned for hours of work she did for defendant. .....

18. ....In particular Plaintiff returned on September 23, 2003 to work after authorized E- Vac. The guard at the Saturn entrance guard shack told Plaintiff that she was restricted from the Saturn property then Security Mark Murphy asked for Plaintiff's badge..... Plaintiff did not receive the September 23, 2003 letter until after 4:17 p.m. on September 26, 2003. Plaintiff, of course, could not attend the meeting because the notice was sent too late.

19. Defendant Saturn carried out its threat and terminated Plaintiff.....

.....And Particularity Sharon Eppler concealed the fact that the plaintiff was allowed to E-Vac and could leave the plant without prior approval up to three different occasions as according to the 2000 Saturn UAW Collective Bargaining Agreement/ Guiding principles.....Defendant Saturn Corporation's EEO Advisor misrepresented the truth and even published false information

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concerning the Plaintiff on different occasions and particularity in around August, November, December 2003 by sending to the Tennessee Human Rights Commission/ Equal Employment Opportunity Commission false allegations, documents containing false records and back dated documents.....

20. Plaintiff avers that the illegal conduct set forth in paragraphs eleven (11), ... Seventeen (17),.....and nineteen (19) was carried out as a result of her prior reports of discriminatory conduct at Saturn, her filing of the Title VII lawsuit against Saturn which

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was settled in 2002,.....and the August 15, 2003 report to the THRC of discriminatory conduct at Saturn.

22. At all times relevant to this complaint, Defendant's employees were acting within the scope of their employment and as agents of the Defendant, pursuant to the doctrine of respondeat superior. Some of these employees, as supervisors and managers, affected decisions to hire, fire, discipline and/ or promote Plaintiff.

26. Defendant has engaged in a pattern of discriminatory conduct and

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continually violated Title VII. Defendant is liable under the continuing violation doctrine.

27. As a direct or proximate result of the conduct and actions of Defendant, Plaintiff suffered humiliation, embarrassment, duress and involuntary termination of her job or a constructive discharge.

28. As a direct and proximate result of the conduct and actions of Defendant, Plaintiff has suffered a loss of wages and other benefits, both past and future, for which she is entitled to be awarded damages against the defendant.

29. Injunctive relief should issue ordering Defendant to reinstate Plaintiff in the position of Operating Technician at the level of seniority, credited service and pay Plaintiff would have attained had her employment not been interrupted.

30. Plaintiff is entitled to be awarded her reasonable attorneys fees and costs of this cause.

WHEREFORE, PLAINTIFF PRAYS;

1... That injunctive relief be granted, ...

2. That this Court award Plaintiff compensatory and punitive damages.....including back wages,....

3. That this Court award Plaintiff her reasonable attorneys fees,...and costs of this cause.

---

4. That this matter be tried before a jury.....

5. That this Court award Plaintiff such other relief as may be just and proper.

Respectfully submitted,

" s/ Marie K. Yanna- Trombley "
Marie K. Yanna- Trombley , Pro se
Ph. 931 270-9688 1090 Spring Place Road ,
Lewisburg , Tennessee , 37091

CERTIFICATE OF SERVICE

I hereby certify.....

Clerical err by District Court in Caption

Pages 27a and 28a : the word " STATES" in the caption is incorrectly typed by the court.

Case 1:04-cv-00026 Document 75-1 filed 08/31/2005
Page 1 of 1

IN THE UNITED STATED [sic] DISTRICT
COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE COLUMBIA DIVISION

* * * * * * * * * * * * *

Case 1: 04-cv-00026 Document 74-1 Filed 08/31/2005
Page 1of 12

IN THE UNITED STATED[sic] DISTRICT
COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE COLUMBIA DIVISION

District Court Refers to Eppler's un sworn Declaration As Being An Affidavit

Page 32a. ....(Docket Entry No. 51, Attachment No. 6, Eppler Affidavit at ¶ 3 and Exhibit A thereto).
....(Docket Entry No. 51, Attachment No.6 and Eppler Affidavit at ¶ 5, Exhibit B

Page 33a. ....(Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 4).

Page 34a. ....Carla Luster, a operations module advisor pushed her. Id. At Attachment No. 61, Eppler Affidavit at ¶ 6.
.... Id. Eppler Affidavit at ¶ 7, Exhibit C thereto.

Page 35a. .... (Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 9), but ....

Page 36a. .... (Docket Entry No. 51, Attachment No.6 Eppler Affidavit at ¶ 15).

02/14/2005	51	APPENDIX 1-12 filed by deft re [48- 1] (km) (Entered: 02/14/2005)
02/16/2005	52	NOTICE by deft Saturn Corporation of filing original declaration of Sharon Eppler (km) (Entered: 02/16/2005

* * * * * *

02/16/2005	53	DECLARATION of Sharon Eppler to replace the facsimile copy filed with the Appendix (Docket Entry No. 51) to motion for summary judgment [48- 1] (km) (Entered: 02/16/2005)

This Supplemental Appendix to Petition for Writ of Certiorari;

respectfully submitted, March 26, 2007,

Marie K. Yanna- Trombley. Pro se
Ph. 931 270- 9688
1090 Spring Place Road
Lewisburg, Tennessee, 37091

59

FILED
JUN 21 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

(3)

No. 06 - 1303

IN THE
SUPREME COURT OF THE UNITED STATES

Marie K. Yanna - Trombley
Plaintiff, pro se,
Petitioner

v.

Saturn Corporation
(Subsidiary of General Motors Corp.)
Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

PETITION FOR REHEARING

Waverly D. Crenshaw,
Monica Johnson
Waller Lansden
Dortch & Davis, PLLC
Nashville City Center,
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Counsel for Respondent

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(931)2709688
Pro Se,
Petitioner

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CERTIFICATE OF COUNSEL . . . . . attached

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NLRB v. Washington Aluminum Co. (U.S. 1962) 9

Staples v. CBL & Assocs., 15 S. W. 3d 83, 89
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Statutes and Rules

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Other Authorities

Black's Law Dictionary Eighth Edition . . . . . .

CJA Appeals - Federal Court . . . . . .

Law 101 An introduction to Domestic and International Legal Terms - © 2005 Center for Reproductive Rights. . .

CJA Appeals - Federal Court
http://www.judicialaccountability.org/
appealsfederalxourt.htm . . . . . .

Appendix

Excerpts from Appellate Brief 66a

Motion to request that the case management judge modify the case management order and to set case management conference with case management judge. 68a

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Universal Declaration of Human Rights . . . . . 77a.

PETITION FOR REHEARING

Pursuant to U.S. Supreme Court Rule 44.2, petitioner Marie K. Yanna- Trombley, Pro Se respectfully petitions the Court for rehearing of its denial of Petition for a Writ of Certiorari issued May 29, 2007.

The circumstanced described in the Petition for a Writ of Certiorari and in this petition for rehearing of its denial of Petition for a Writ of Certiorari are sufficient to warrant the full Court making a review of the case and of the lower court's actions. Grounds for the petition are:

II. GROUNDS OF SUBSTATIAL EFFECT.

A. The Supreme Court Rule 10 seemingly allows the lower courts to misapply Federal Rules of Civil Procedure

because "A petition for a writ of certiorari is rarely granted when the asserted error consists ..... the misapplication of properly stated rule of law", U.S. Supreme Court Rule 10.

> Fed. R. Civ. P. 1, Scope And Purpose Of Rules.
> These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

Because the Lower Courts misapplied the Federal Civil Rules Of Procedure, my right to a trial was unjustly taken away.

B. The Supreme Court Rule 10 seemingly allows the lower courts to change the facts of the case

because according to U.S. Supreme Court Rule 10 , "A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings..", U.S. Supreme Court Rule 10.

As defined in Black's Law Dictionary precedent is a prior case or decision of a court which can be used to furnish an authority in a following case based on identical or similar question of law, or similar facts.[1]

In determining whether to award summary judgment, the court must view the evidence in the light most favorable to the nonmoving party, drawing all reasonable inferences in favor of the nonmoving party. *Staples v. CBL & Assocs.*, 15 S. W. 3d 83, 89 (Tenn. 2000). I, Marie Yanna- Trombley, am the summary judgment nonmoving party. The Standard for Reversal For Fact Finding is Clearly Erroneous. I have presented sufficient relative evidence showing that the lower court decisions are based on erroneous findings and lacks legal reasoning.

---

[1] CJA Appeals - Federal Court

III. GROUNDS OF CONTROLING EFFECT.

A Lower court allowed to withhold relevant evidence from reviewing court.

The lower court states that I did have proof but the court did not described what proof I had into evidence. In effect lower Courts are being allowed to ignore evidence of Saturn/GM. 's guilt thereby stopping the proof from reaching a jury. See Appendix of exhibits 72a, Affidavit of Marie Yanna-Trombley 74a and Plaintiff's disputed facts 18a and 24a.

Fed. R. Civ. P. 5, (e) Filing With the Court Defined. The Clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

Fed. R. Civ. P. 79, Books And Records Kept By The Clerk And Entries Therein (a) Civil Docket.....All papers filed with the clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. these entries shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process.

Because Clerk did not properly enter in to the docket my Response to Saturn Corp Statement Of Undisputed Facts, the Court did not consider my opposition to Summary Judgment. My response in opposition to Saturn/GM are hid in the docket as Response By Pltf to stmt [50] " by these entries shall be brief but shall show the nature of each paper filed" Fed. R. Civ. P. 79.

The judges function at summary judgment stage is not to judge if one side or the other is telling the truth but whether the evidence presents sufficient disagreement that a jury could find for the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986).
see 74a and Plaintiff's disputed facts 24a.

B. Lower court allowed to change the nature of the case.

Federal District Court Clerk for the Middle District of Tennessee did not enter into the docket document (s) I submitted to be filed concerning the real location of my sworn Affidavit Numerous time I had to spend time trying to keep the docket correct.

Because the Clerk did not properly enter in to the docket my Affidavit in Opposition To Saturn Corporations Motion for Summary Judgment the Court did not consider my opposition to Summary Judgment.

My motion to modify the case management order and to set a further case management conference was granted by the Honorable Judge Higgins, however a date was not set and I was denied a case management conference with opposing counsel, see 69a.

C. Denied my Constitutional Rights to Procedural Due Process, Right to a fair hearing, Right to have Jury Trial and Right to my property . . . . . .

The Appellate Court did not make a legal and proper review of Trombley's Retaliation Claim and/or the Intentional Discrimination Claim . Because Appellate Court looked over the fact that my prior law suit against Saturn/GM was a Title VII Federal lawsuit. This case here is a lawsuit base upon Saturn/GM retaliating against me because of my prior Title VII law suit against Saturn/GM.

Because the District Court Clerk did not send my evidence to the reviewing court as order by the Judge , in effect Yanna-Trombley did not receive legal review of her case, see Record Transfer Log 70a , 71a and Order denying disputed facts to be transmitted 18a.

Because the lower courts did not have before them Yanna-Trombley's exhibits and/or opposition to summary judgment and only had the Saturn/GM, motion for summary judgment, the lower court erroneously based it's decision only on Saturn/GM's motion for summary judgment .

Not anywhere in the memorandums of the lower court (s) is the mention of Marie Yanna- Trombley's affidavit, disputed facts or her exhibits. The Appeal Court could not possibly had made a legal review of Yanna-Trombley's Appeal. See 18a, 24a and 18a.

In effect the lower courts successfully created pandemonium of erroneous factual findings and did not follow controlling precedent. It also appears that Saturn/G.M. is being allowed to take my earned wages from my bank account and Saturn/GM is not be held accountable for not paying me my earned wages.

Because the Court did not address or decide the issue of Management Dave Salima hanging up the phone on me Marie Yanna- Trombley as I tried to dial 911 this becomes an issue of most important to pubic interest, safety and well being.

The memorandum itself presents sufficient disagreement to require a submission to a jury by bringing forth factual finding of physical contact. And because Summary judgment was not warranted when the Appellate Court found disputed facts.

IV. GROUNDS NOT PREVIOUSLY PRESENTED

A. My Exhaustion of Domestic Remedies.

To exhaust Domestic Remedies is the requirement in international human rights law . That an aggrieved party must first exhaust all available legal remedies at the national level before applying for remedies to an international or

regional body.[2]

Because of the seriousness of the circumstances and the interest of public awareness and women's rights in the work place rehearing is warranted. I was kept from receiving help from Maury County Police Department when I was assaulted by Saturn Corp /G. M. Supervisor.

B Denied my basic human rights to be free of retaliation because of exerting my Title VII rights.

This Petition needs to be granted to show the large corporations that they will be held accountable for their illegal actions and that women do have rights in the work place . That women have the right to call 911. That a woman has the right to receive a paycheck and not be afraid to make a complaint and have her pay check taken away from her, or her hands slapped away from the phone by supervisor. Or have the phone hung up on her by her manager while she tries to dial 911, That an un sworn Declaration may contain lies and false accusations, and the Plaintiff has a right to defend herself from such accusations. ....the credibility of the declarant may be attacked,.... Rule 806.

---

[2] Law 101 An introduction to Domestic and International Legal Terms - © 2005 Center for Reproductive Rights

C. Domestic and International Public Interest.

I had the right to call 911 when my hands were being was slapped away from the phone by a male Saturn supervisor; this affects women's rights in the work place. Since the District Court and Appellate Court choose to ignore and failed to acknowledge this important issue of public interest woman in the work place will continually be denied the existence worthy of human dignity, and social protection. Everyone has the right to life. liberty and security of person .see Universal Declaration of Human Rights Preamble Article 3, 77a.

D. There does not exist independent and adequate stated grounds that justify the lower court (s) decision.

The lower court based the finding only on Saturn/GM. hearsay evidence after I have presented overwhelming relative evidence of Saturn/GM. 's fault of Intentional Retaliation and their use of fraudulent documents; see Fed. R. Civ. P. 806.

By Statute a party aggrieved by the final judgment of the United States District court has a right to appeal to the United States Court of Appeals. However, these days, the great majority of the opinions handed down by the federal appeals courts are marked "Not To Be Published. Generally they are not carefully analyzed as are the published opinions. In many cases the decision is based on facts inaccurately stated, sometimes fabricated and do not

follow the controlling precedent. It is not unusual for a judge's law clerk to write these opinions. [3]

V. CONCLUSION

By allowing the lower courts to change the facts, and misapply the very rules that allows me to have my constitutional right to a jury , is sending a message to all Corporations in America saying " its ok to slap your employees, hang up the phone on them, stop them from getting help from the police denying them just and favorable conditions of work " And by all means slander them, degrade them, take away their dignity and lets not forget to take away their earned wages on top of that.

In *NLRB v. Washington Aluminum Co.* (U.S. 1962) seven employees left work without permission to protest the cold temperature in their shop. The walk out was held to fall within § 7 of the National Labor Relations Act (NLRA)

I left and went to the Police and was terminated for this action. see Supplemental Appendix 57a

Is Saturn/GM receiving special treatment because of their celebrity status?

---

[3] CJA Appeals - Federal Court
http://www.judicialaccountability.org/appealsfederalxourt.htm

VI. CLOSING

I, Marie K. Yanna Trombley pro se, respectfully request that this honorable United States Supreme Court grant my Petition for Writ of Certiorari and/or Order for this case to be set for jury trial.

Respectfully submitted ; June 21, 2007

Marie K. Yanna- Trombley - ph. 931 270-9688
1090 Spring Place Road ,
Lewisburg , Tennessee , 37091

No. 05-6419

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Marie K. Yanna- Trombley, prose Plaintiff- Appellant
v. Saturn Corporation Subsidiary of General Motors Corp.,
Defendant - Appellee.

On Appeal from the United States District Court for the
Middle District of Tennessee, Columbia Division

Brief for Marie D. Yanna- Trombley Pro-se Appellant
urging reversal in support of Appellant

Marie K. Yanna- Trombley
Pro-Se Appellant
1090 Spring Place Road
Lewisburg, Tennessee, 37091

.....

On April 26, 2005 the Honorable Judge Higgins transferred the case to the Honorable Judge Haynes, Docket 67. On July 15, 2005 an order granting # 33 for Saturn Corporation to file a Corporate Disclosure Statement, Docket 70 and an order granting # 42 Motion to Amend Complaint, Docket 73. Saturn corporation's Motion for Summary Judgment was granted and the action was dismissed with prejudice entered August 31. 2005 docket 75. Ms. Trombley filed a timely Notice of Appeal on September 9, 2005, Docket 76.

.....

5 of 30

---

4. What action do you want the Court to take in this case?

Appellant Ms Trombley ask for mitigation with Appellee Saturn Corporation ....

5. What specific issues do you wish to raise on appeal/

Whether the court erred by citing Fed. R. Civ. P. 56 (d) when there was no motion or hearing as described in Fed. R. Civ. P. 56 (d) and facts that exist with substantial controversy? ....

28 of 30

FILED
2004 SEP 27 PM 1: 09
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNNESSEE COLUMBIS DIVISION

MARIE K. YANNA-TROMBLEY,
Vs.
SATURN CORPORATION

) CASE No. 1-04-0026
) Judge Thomas A. Higgins
) Magistrate Judge Knowles
) Jury Demand

MOTION TO REQUEST THAT THE CASE MANAGEMENT JUDGE MODIFY THE CASE MANAGEMENT ORDER AND TO SET CASE MANAGEMENT CONFERENCE WITH CASE MANAGEMENT JUDGE.

Come now Plaintiff, Marie K. Yanna Trombley, Pro Se and respectfully request that the honorable case management judge modify the case management judge set a case management conference with the honorable case management judge for reasons of unusual circumstances;.....

09/27/2004 16 Motion by Pltf that the case management judge modify the case management order and to set case management conference with case management judge (w/attachment) (km) (Entered: 09/27/2004)

10/20/2004 24 ORDER by Judge Thomas A. Higgins:.....; Motion to modify the case management order and to set a further case management conference [16-1] is granted; Case Management order [7-1] entered 6/8/04, is vacated. All issues related to the .....(EOD 10/21/04) (cc: all counsel) (km) (Entered: 10/21/2004)

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RE: YANNA-TROMBLEY V. SATURN CORP.

COURT OF APPEALS NO. 05-6419

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FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN
MAR 25 2005
BY _____
DEPUTY CLERK

FOR THE MIDDLE DISTRICT OF TENNNESSEE
COLUMBIA DIVISION
MARIE K. YANNA-TROMBLEY. Plaintiff, pro se

Vs.

SATURN CORPORATION (Subsidiary of General Motors Corp. Defendant

)
) CASE No. 1- 04- 0026
) Judge Thomas A Higgins
) Magistrate Judge Knowles
) Jury Demand
)

APPENDIX TO PLAINTIFF'S MEMORANDUM OF POINTS AND ATHORITIS IN SUPORT OF PLAINTIFF'S RESPONS TO OPPOSE DEFENDANT SATURN CORPORATION'S MOTION FOR SUMMARY JUDGMENT; .....

Book one of two bound books of Plaintiff exhibits, starting at tab "A" including and ending at tab "R" then continued in book two starting at tab "S" including and ending at tab "29".

.....

Exhibit # 62 Affidavit of Marie Yanna- Trombley. I

.....

3 of 11 pages

Tab I

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNNESSEE
COLUMBIA DIVISION
MARIE K. YANNA-TROMBLEY. Plaintiff, pro se

Vs.

SATURN CORPORATION (Subsidiary of General Motors Corp. Defendant

)
) CASE No. 1- 04- 0026

) Judge Thomas A Higgins
) Magistrate Judge Knowles
) Jury Demand
)

AFFIDAVIT OFMARIE K. YANNA- TROMBLEY IN SUPPORT OF MOTION TO OPPOSE DEFENDANT SATURN CJORPORATION;S MOTION FOR SUMMERY JUDGEMENT.

The affiant, Marie Yanna-Trombley pro-se plaintiff, case No. 1-04-0026, having been duly sworn according to law, deposes and says as follows:.....

1 of 33

---

29. ..... After lunch Robert Erwin relieved me and I went over to the phone located on the I- beam pole to make a call to prepare and research in order to uphold my civil rights on signing documents; especially after Dave Solima saying it was a legal document, and he did not want my initials on the Job Aide form.

30. A hand came out of no where and slapped down the receiver and my eyes followed a long arm up over my right shoulder. I turned to see Dave Solima towering over me and he frightened me and I screamed.....

15 of 33

I tried to redial my husband back, but Mr. Solima repeatedly slapped my hand away. At this point I told Dave I needed to call the Police. Mr. Solima continued to slap my hand away and kept me from redialing and then he took the phone away from me. Not only was I frightened but I now feared for my safety..... I walked to my locker and got my book and bag....I went back to the phone and dialed 9 for an outside line then 911 and again Dave Solima came over hung up the receiver and slapped my hand away....

15 of 33

---

41. I tried to return to work on September 23, 2003 after a reproved day off and an 2 hour E- Vac. (See exhibit 30 A) and was stopped at the Saturn South gate entrance and was told that I was restricted from entering the property. As my husband and I started to leave we had a security vehicle pull into our path and we quickly became surrounded by Saturn security vehicles.

.....

22 of 33

---

58. I believe I was not paid my last pay check or the reason that Saturn /GM withdrew my last check was because I went to court and was a witness against Saturn Supervisor Dave Solima for Assault. Defendant cannot show where Plaintiff's money has went but has sent a ledger that shows

the withdrawal of monies but not why it was with withdrawn. See band statement - exhibit 5D, Police report- exhibit 32 B and Brand Jury- exhibit 32D.

.....

.....

I swear or affirm that the information given above is true and correct to the best of my knowledge, information and belief.

"s/ Marie Yanna-Trombley" 3- 23- 05
Marie Yanna-Trombley DATE

Subscribed to and sworn to before me this March 23, 2005

"s/ Joan Thompson" My commission expires on 6-6-05
Notary Public
State of TN.
County of Marshall

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Where as Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights

and freedoms is of the greatest importance for the full realization of this pledge,

Article 3. Everyone has the right to life. liberty and security of person .

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary by other means of social protection.

CERTIFICATE OF COUNSEL

Pursuant to Supreme Court Rule 44.2 , petitioner Marie k. Yanna- Trombley, Pro Se presents this Certificate of Counsel for Petition for Rehearing. This Petition for Rehearing is restricted to the grounds specified in Supreme Court Rule 44.2. The grounds are of an intervening circumstances of a substantial or controlling effect and substantial grounds not previously presented. This Petition for Rehearing is presented in good faith and not for delay.

I swear or affirm that the information given above is true and correct to the best of my knowledge , information and belief.

Marie Yanna-Trombley — DATE 6-21-07

Subscribed to and sworn to before me this date 6-21-07

Mona K. Klarer My commission expires on 5-2-09

Notary Public

MONA K. KLARER STATE OF TENNESSEE NOTARY PUBLIC MARSHALL COUNTY

Respectfully submitted ;

Marie K. Yanna- Trombley , ph. 931 270-9688
1090 Spring Place Road ,
Lewisburg , Tennessee , 37091